Government
Publications

ONTARIO

THE ONTARIO MUNICIPAL BOARD

# 57TH ANNUAL REPORT

by

THE ONTARIO MUNICIPAL BOARD

Upon the Affairs of The Board

During the Year Ended

December 31, 1962

TO: THE HONOURABLE THE MINISTER OF MUNICIPAL AFFAIRS

Pursuant to Section 100 of
The Ontario Municipal Board Act
R.S.O. 1960, Chapter 274

Digitized by the Internet Archive
in 2014

https://archive.org/details/municipalboard1962onta

# I N D E X


PART I

Establishment and Operation . 1

PART II

Membership and Organization 2

PART III

Jurisdiction and Functions 3

PART IV

Growth and Economic Stability of Municipalities

Section 1
Constitution, Boundary Revision and Dissolution of Municipalities 5

Section 2
Approval of Capital Undertakings and of the Imposition of Rates and Levies to Recover the Cost Thereof 6

Section 3
Approval of Restricted Area By-laws, Official Plans and Plans of Sub-division 10

Section 4
Assessment Appeals 13

PART V

Arbitrations in Respect of Compensation for Lands Taken or Injuriously Affected 14

PART VI

Duties as Drainage Referee 15

PART VII

Revenue 16

ONTARIO

THE ONTARIO MUNICIPAL BOARD

PART I

ESTABLISHMENT AND OPERATION

The Ontario Municipal Board was established under the authority of The Ontario Railway and Municipal Board Act, 1906. The present organization of the Board is provided for in The Ontario Municipal Board Act, (R.S.O. 1960, c.274). The Board carries out and performs statutory duties and functions only, and while it is a corporate body the practice is strictly followed of assigning members to specific applications and thereafter they are considered seized of such application. If a change must be made for an unavoidable reason the hearing is commenced de novo. The Board is given jurisdiction under a large number of statutes but its procedure and general powers are governed by The Ontario Municipal Board Act. Two members are a quorum to hear and dispose of any application and the Chairman may appoint one member to hear any application and report to the Board. In such cases the decision or order is made by two other members, one of whom must be the Chairman or a vice-chairman.

.....

# PART II

## MEMBERSHIP AND ORGANIZATION

The membership and organization of the Board during the period covered by this report was as follows:

| | |
|---|---|
| J. A. KENNEDY, Q.C.<br>(Appointed October 1, 1956) | Chairman |
| R. L. KENNEDY<br>(Appointed February 15, 1951) | Vice-Chairman |
| J. R. TURNBULL<br>(Appointed June 1, 1960) | Vice-Chairman |
| A. H. ARRELL, Q.C.<br>(Appointed June 30, 1961) | Vice-Chairman |
| W. GREENWOOD,<br>(Appointed January 1, 1953) | Member |
| D. JAMIESON<br>(Appointed December 1, 1955 | Member |
| V. S. MILBURN<br>(Appointed April 1, 1956) | Member |
| A. L. McCRAE<br>(Appointed December 1, 1958) | Member |
| H. E. ROBERTS<br>(Appointed June 30, 1961) | Member |
| J. V. LUDGATE<br>(Appointed April 1, 1962) | Member |
| F. G. BLAKE<br>(Appointed November 15, 1962) | Member |

.....

| | |
|---|---|
| B. VICKERS<br>(Appointed April 1, 1961) | Secretary |

.....

All members and staff are engaged full-time and the Board's Chambers during the year were located in the Ontario Government Building at 145 Queen Street West, Toronto.

.....

## PART III

## JURISDICTION AND FUNCTIONS

It seems to be accepted generally that government in Ontario is divided basically into the three branches of legislative, executive and judicial. Certain duties of the executive are vested by legislation in administrative boards such as the Ontario Municipal Board and in most cases the statute requires that this Board hold a hearing before reaching a decision. This is to ensure that those whose rights are to be affected will have the opportunity to be heard as required by the rules of natural justice which the courts have held to apply to cases before this Board in which a hearing is required. This jurisdiction has been called the administrative process, borrowing as it does from the executive and from the judicial. The rules of natural justice are generally accepted to be the following :

1: That the tribunal shall be free from bias.

2: That all persons having an interest in the subject matter shall be heard.

This latter might be said to be the cardinal reason for the introduction of the administrative process into the machinery of government, to ensure that decisions would not be made administratively without the individual being given every opportunity to develop his case at a public hearing.

The actual duties and functions of the Board are found largely in The Municipal Act, The Assessment Act, The Planning Act and the school acts, but in addition there is a myriad of other statutory provisions which confer jurisdiction on the Board in a very wide variety of cases. The functions and jurisdiction of the Board may be divided into two general categories :

1: Responsibility for the sound growth and development of municipalities within the framework of the statutes with particular regard to economic stability.

2: Jurisdiction as arbitrator in the first instance or by way of appeal to determine compensation to be paid by the Crown in the right of Ontario or its Crown corporations, by municipalities and other local authorities, and by certain private corporations.

These two divisions are reported on in Parts IV and V respectively of this report.

.....

# PART IV

## GROWTH AND ECONOMIC STABILITY OF MUNICIPALITIES

This part of the Board's jurisdiction can be divided under the following headings :

1: Constitution, Boundary Revision and Dissolution of Municipalities.

2: Approval of Capital Undertakings and of the Imposition of Rates and Levies to Recover the Cost Thereof.

3: Approval of Restricted Area By-laws, Official Plans and Plans of Subdivision.

4: Assessment.

### SECTION 1

### Constitution, Boundary Revision and Dissolution of Municipalities

During the year the Board ordered the incorporation of one village and the elevation of two towns to city status, of one village to town status, and of one improvement district to township status.

Given in Schedule "A" to this report is a list of annexation decisions delivered during the year. Particular mention should be made of the annexation of the whole of Stamford Township to the City of Niagara Falls. Originally this application was presented as an application for amalgamation of city and township but at the same time annexation was requested of additional territory to the proposed new municipality. A similar combined application had been quashed by the courts in a previous case as beyond the powers given by the statute and accordingly the Board requested the applicants to revise their application in this case to conform to the law as previously laid down. The result was that the City of Niagara Falls and the Township of Stamford each made application for annexation of the other municipality and for the additional outside area proposed. The Board

proceeded with the city's application and decided that the Township of Stamford should be annexed to the city but dismissed the application for the annexation of the outside areas, namely, the Village of Chippawa and parts of the Townships of Willoughby and Thorold. A number of special provisions were included in the order with the consent of the city and the township. With the consent of all concerned a new Board of Education was established with jurisdiction in primary and secondary education extending throughout the new city and also throughout the Village of Chippawa and the Township of Willoughby, an area in which the Township of Stamford Board of Education had jurisdiction prior to the annexation. Another special feature of this order which was included at the joint request of the city and of the township was that the elected council and local boards would be comprised one-half of members elected from the former city and one-half elected from the former township. This provision will apply until and including the term that will expire December 31, 1966.

SECTION 2

Approval of Capital Undertakings
and of the Imposition of Rates and
Levies to Recover the Cost Thereof

Section 64 of The Ontario Municipal Board Act provides that the approval of this Board is required of any undertaking, work, project, scheme, act, matter or thing whereof the cost or any portion of the cost is to be raised in a subsequent year or years or provided by the issue of debentures before the municipality will authorize the same, or exercise any of its powers to proceed with or provide any moneys for the cost of the same. This Board has always understood that the purpose of this section is to keep the debt of the municipality within a safe limit and to prevent the rates required to service the debt of the municipality from becoming an undue burden on the ratepayers. The

duty of the Board in this regard is clearly set forth in Section 62 of The Ontario Municipal Board Act which reads as follows :

> "62. The Board, upon any application of a municipality "for approval of the exercise by a municipality of any of "its powers, or of the incurring of any debt, or of the "issue of any debentures, or of any by-law, shall, before "approving the same, make such inquiry into the nature of "the power sought to be exercised or undertaking that is "proposed to be or has been proceeded with, the necessity "or expediency of the same, the financial position and "obligations of the municipality, the burden of taxation "upon the ratepayers and into all other relative matters, "as in the opinion of the Board may appear to be necessary "or expedient."
>
> Note:
> It should be noted that the word "municipality" includes local boards by definition which in turn include school boards.

Because of the increasing demands made upon municipal authorities to undertake capital works and other capital projects this Board with each passing year is examining with greater care the debt position of those municipalities which are facing large capital programs. As reported previously, the Board requested in the year 1961 a capital budget or forecast from a number of municipalities which, in the opinion of the Board,were approaching a safe limit for capital debt.

In the year 1962 the Board took the first step in a new policy of requesting such a forecast from the municipalities in the province without distinction as to their debt position. This meant that such a forecast was requested in the year 1962 from The Municipality of Metropolitan Toronto, from all area municipalities in Metro, from most of the cities in Ontario and from a selected list of other municipalities, the latter as a pilot project. It was found possible with the assistance of certain recent statutory amendments to reward the municipalities willing to embark on this measure of planning future capital undertakings with a procedure for approval of capital undertakings greatly stream-lined and simplified. In this way it has been possible to accommodate municipalities by an appreciable reduction in the

number of steps to be taken as well as in the waiting time between the original filing of the application and the obtaining of approval by this Board. Under this practice a quota is established for each municipality participating and the amount of new debt represented by each application filed during the year is merely deducted from the quota since the necessity for further examination of the capital position of the municipality in question is obviated until the quota established at the beginning of the year has been used up. During the year 1962 about 45 Ontario municipalities were placed on quota by this method and it is a source of satisfaction that only two of these municipalities sought to exceed their quota before the end of the year. In each case the Board was given a reasonable explanation and the necessary adjustment was made.

Needless to say this innovation has proved of very great value to the municipalities as an incentive to the proper planning and staging of capital undertakings and has provided a very important guide for the Board in assessing the need for the various projects proposed and the financial capacity of the municipality to undertake any given work. This is in addition to a most desirable speed-up in the whole procedure.

In performing duties of this nature it will be understood that frequently the Board must consider whether any particular policy or decision will amount to undue interference with local autonomy. This is a matter which the Board regards as of prime importance and actually by this new procedure the Board has made a number of advances in restoring to the local council and its officials many duties and responsibilities which properly belong at the local level.

Another matter against which this Board must constantly protect the ratepayer is any very sharp increase in the debt of a municipality in a relatively short period of time. Such an

increase in debt will be reflected in a future year in a sharp increase in the levy required to service the debt. This will, in many cases, result in a hardship to the taxpayer which it is the duty of this Board to consider and prevent.

There is another feature to which the Board must give special attention in the case of projects whereof the whole or part of the cost is to be recovered by the levy of a special rate. In every such case the Board requires that notice be published so that those against whom it is proposed to levy the special rate will have an opportunity to object. If objections are made the Board holds a hearing before the application is considered for approval.

The following table shows the number of new capital expenditure applications received and the total amount approved in each of the past five years :

| Year | Number | Amount |
|---|---|---|
| 1958 | 2,225 | $ 511,859,511.57* |
| 1959 | 2,567 | 284,040,812.67 |
| 1960 | 2,415 | 317,940,371.21 |
| 1961 | 2,299 | 274,132,977.37 |
| 1962 | 2,344 | 391,032,769.76 |

*The amount approved in 1958 includes the cost of construction of the east-west subway in the amount of $200,948,000.00.

A detailed classification of municipal capital expenditures approved during the year 1962 will be found in Schedule "B" to this report, together with comparative totals for the previous year.

It will be noted that expenditures for education were approved in the year 1962 in the amount of $195,335,984 as compared to $70,481,971 in the year 1961.

It should not be assumed that the total of these capital expenditures approved in the year 1962 represents a corresponding increase in the capital debt of the municipalities concerned as a substantial part of the increase represents the cost of new school construction under the Technical and Vocational Training Agreement made with the Government of Canada contributed almost entirely from provincial and federal funds.

Ontario Water Resources Commission

A considerable number of the capital undertakings of municipalities in the province are for the construction of water-works or sewerage works by the Ontario Water Resources Commission under the provisions of The Ontario Water Resources Commission Act. Since these projects create a debt of the municipalities they require the approval of the Board under Section 64 of The Ontario Municipal Board Act. When part of the cost is to be raised by a special rate the Board requires public notice and if objections are made a public hearing is held. During the year 1962 the Board received 91 applications from the Commission having a total value of $20,718,638.

SECTION 3

Approval of Restricted Area By-laws
Official Plans and Plans of Subdivision

The jurisdiction of the Board under this heading is conferred by The Planning Act.

The jurisdiction conferred on the Board under Section 30 of The Planning Act to approve land use by-laws passed by municipal councils and in certain cases to require a council to pass an amending by-law is of extremely far-reaching effect and results in the Board being obliged to review and sometimes vary decisions made by local elected representatives. Usually these

elected representatives have determined on a certain course with the advice and assistance of a planning board and in many cases of a trained and experienced planning staff. In the exercise of their best judgment the members of council by a majority vote arrive at a decision which they deem to be just and appropriate. In some cases a council will arrive at such a decision before hearing all those immediately concerned but in most cases council arrives at a decision only after full consideration of representations by all those who ought to be heard.

This Board recognizes that a discretion is vested by the Legislature in the municipal council. This position has been maintained by the Board in the face of very strong arguments advanced in objection to a by-law proposed or upon application for an order to compel the council to pass an amending by-law. Quite often when the by-law or decision of the council has been upheld by the Board strong dissatisfaction is voiced by the unsuccessful party and in cases where the Board finds it necessary to overrule the council some members of that body have criticized the Board's action as an unwarranted interference with local autonomy. However, the duty of the Board under the statute is clear and must be followed.

The number of applications made to the Board under this legislation during the year, with figures for the previous year, is as follows :

| | 1961 | 1962 |
|---|---|---|
| Applications for approval of restricted area by-laws | 851 | 939 |
| Applications for approval of plans of redevelopment | 3 | 2 |
| Applications for approval of proposed plans of sub-division | 23 | 22 |
| Applications for approval of official plan amendments | 67 | 47 |
| Appeals to Board for a direction that a restricted area by-law be amended by council | 64 | 46 |
| Appeals from committees of adjustment | 116 | 129 |

It will be noted from the foregoing table that while the number of applications for approval of by-laws increased substantially over the year 1961 the number of applications for approval of plans of subdivision referred to the Board has remained virtually the same and the number of applications for approval of official plan amendments referred to the Board for consideration and the number of appeals to the Board for an order directing municipal councils to amend by-laws has each been reduced substantially. This would indicate that while the volume of activity in this general field has increased, the number of cases in which it has been found necessary to refer to this Board for the settlement of disputes has decreased, which in turn would indicate an extension and acceptance of orderly procedures in this very difficult and equally important field of the planning of land use.

SECTION 4

Assessment Appeals

During the year 1962 assessment appeals were made to the Board under the several statutes as follows :

| | |
|---|---|
| The Assessment Act | 435 |
| The Local Improvement Act | 21 |
| The Municipal Tax Assistance Act | 1 |
| The Power Commission Act | 5 |

There were also filed during the year three appeals for a review of the division of liability among municipalities comprising high school districts.

.....

## PART V

## ARBITRATIONS IN RESPECT OF COMPENSATION FOR LANDS TAKEN OR INJURIOUSLY AFFECTED

The Board is given jurisdiction to determine compensation or damages to be allowed for lands taken or injuriously affected under various public statutes. The courts have held that in this field the Board must follow strict rules of evidence and what amounts to reasonably strict court procedure. As required by the rules of natural justice the Board's decisions must be based only on known evidence and after a full hearing conducted according to legal principles. During the year 1962 applications were made to the Board for compensation for damages to be allowed for lands taken or injuriously affected by authorities with the right of expropriation as follows :

| | |
|---|---|
| The Conservation Authorities Act | 7 |
| The Highway Improvement Act | 46 |
| The Municipal Act | 45 |
| The Ontario Water Resources Commission Act | 11 |
| Others | 5 |

.....

## PART VI

## DUTIES AS DRAINAGE REFEREE

For several years the Board has acted as Drainage Referee. This work consists mainly of hearing appeals under The Municipal Drainage Act and The Ditches and Watercourses Act. There is nothing remarkable about this part of the Board's work.

During the year 1962 nine applications were made to the Board.

.....

## PART VII

## REVENUE

In compliance with the requirement of Section 99 of The Ontario Municipal Board Act the Board has adopted a tariff of fees payable on various types of applications and orders.

The following table sets forth the fees received by the Board and transferred to the Treasurer of Ontario for the fiscal year ending March 31, 1962, and the preceding six years. In conformity with the present system of provincial accounting this table is given for the fiscal year only, in contrast to other statistics contained in this report, which are made for the calendar year ending December 31, 1962.

| Fiscal Year | Amount |
|---|---|
| 1955-56 | $ 264,098.16 |
| 1956-57 | 293,321.49 |
| 1957-58 | 272,339.09 |
| 1958-59 | 328,181.66 |
| 1959-60 | 345,538.56 |
| 1960-61 | 320,021.63 |
| 1961-62 | 294,001.91 |

The revenues of the Board for the calendar year 1962 amounted to $310,871.09.

.....

All of which is respectfully submitted.

J. A. KENNEDY
CHAIRMAN

W. GREENWOOD
MEMBER

R. L. KENNEDY
VICE-CHAIRMAN

D. JAMIESON
MEMBER

J. R. TURNBULL
VICE-CHAIRMAN

V. S. MILBURN
MEMBER

A. H. ARRELL
VICE-CHAIRMAN

A. L. McCRAE
MEMBER

H. E. ROBERTS
MEMBER

J. V. LUDGATE
MEMBER

B. VICKERS
SECRETARY

F. G. BLAKE
MEMBER

This is SCHEDULE "A" to the 57TH ANNUAL REPORT of the ONTARIO MUNICIPAL BOARD

for the year 1962, made to

THE HONOURABLE THE MINISTER OF MUNICIPAL AFFAIRS

.....

DECISIONS GRANTING ANNEXATIOND - 1962

| Date of Decision | To | From | Effective Date | Area |
|---|---|---|---|---|
| Feb. 8/62 | Sudbury City | Broder Twp. Unorganized | Apr. 1/62 | 18.39 acres |
| Mar. 21/62 | Tilbury Town | Tilbury North Township | Jan. 1/63 | 38.38 " |
| May 9/62 | Rayside Township | Snider Township | Jan. 1/63 | 1.833 " |
| June 8/62 | Fauquier Township | Nansen Twp. Unorganized | Jan. 1/63 | |
| June 25/62 | Blenheim Town | Harwich Township | Jan. 1/63 | 304. " |
| July 16/62 | Stouffville Village | Whitchurch & Markham Townships | Jan. 1/63 | 1,472. " |
| Aug. 17/62 | Port Hope Town | Hope & Hamilton Townships | Jan. 1/63 | 152.21 " |
| Sept. 7/62 | Rockland Town | Clarence Township | Jan. 1/63 | 1,000. " |
| Sept.14/62 | Niagara Falls City | Stamford Township | Jan. 1/63 | whole area |
| Oct. 10/62 | Peterborough City | North Monaghan, Otonabee, Douro & Smith Townships | Jan. 1/63 | 4,885. " |
| Nov. 2/62 | Paris | South Dumfries & Brantford Townships | Jan. 1/63 | 795. " |
| Nov. 29/62 | Beamsville Village | Clinton Township | Jan. 1/63 | 1,050. " |

This is SCHEDULE "B" to the 57TH ANNUAL REPORT of the ONTARIO MUNICIPAL BOARD

for the year 1962, made to

THE HONOURABLE THE MINISTER OF MUNICIPAL AFFAIRS

.....

CLASSIFICATION OF MUNICIPAL CAPITAL EXPENDITURES

APPROVED DURING 1962

I - MUNICIPAL

| | | | Totals | |
|---|---|---|---|---|
| (1) | General Government | Amount Approved | 1962 | 1961 |
| | Civic Buildings | $ 24,126,374.67 | | |
| | Civic Equipment | 378,323.35 | $ 24,504,698.02 | $ 4,037,402.04 |
| (2) | Protection to Persons & Property | | | |
| | Fire | $ 1,524,431.39 | | |
| | Police | 415,590.00 | | |
| | Court House Jails | 3,559,986.00 | | |
| | Street Lighting | 180,745.00 | 5,680,752.39 | 2,339,397.05 |
| (3) | Public Works | | | |
| | (a) Grade Separations | 5,457,018.00 | | |
| | Streets, Roads, Lanes | 25,255,959.03 | | |
| | Sidewalks | 5,040,846.91 | | |
| | Bridges | 16,946,892.99 | | |
| | Tunnels & Subways | 242,700.00 | | |
| | Road Machinery | 617,123.96 | | |
| | Workshops & Yards | 538,000.00 | 54,098,540.89 | 69,118,368.46 |
| | (b) Watermains | 8,828,444.47 | | |
| | Storm Sewers | 30,762,945.12 | | |
| | Waterways, Harbour Developments | 9,364,979.00 | 48,956,368.59 | 32,400,527.09 |
| (4) | Sanitation and Waste Removal | | | |
| | Sanitary Sewers | 34,594,146.28 | | |
| | Sewage Disposal | 16,407,553.37 | | |
| | Garbage | 183,418.00 | | |
| | Waste Collection | 400,000.00 | 51,585,117.65 | 30,946,539.63 |
| (5) | Health | | | |
| | Hospital Grants | 22,421,966.93 | | |
| | Hospital Clinics | 88,063.70 | 22,510,030.63 | 13,513,725.19 |
| (6) | Social Welfare | | | |
| | Homes for the Aged | 8,218,234.33 | | |
| | Charitable Institutions | 411,000.00 | 8,629,234.33 | 7,067,228.52 |

## I - MUNICIPAL

(7) Recreation Services

| | | | |
|---|---|---|---|
| Parks | $ 2,636,140.00 | | |
| Skating Rinks, Arenas | 1,973,878.00 | | |
| Swimming Pools, Beaches | 3,349,610.00 | | |
| Community Centres | 1,243,788.00 | $ 9,203,416.00 | $ 4,563,185.19 |

(8) Community Services

| | | | |
|---|---|---|---|
| Libraries | 3,480,971.00 | | |
| Museums | 77,000.00 | | |
| Housing | 8,305,044.02 | 11,863,015.02 | 7,566,276.13 |
| | General Government | $237,031,173.52 | $171,552,649.30 |

## II - EDUCATION

| | | | |
|---|---|---|---|
| Elementary Schools | $ 38,948,926.99 | | |
| Secondary Schools | 96,385,057.82 | $135,333,984.81 | $ 70,481,971.99 |

## III - UTILITIES and MUNICIPAL ENTERPRISES

| | | | |
|---|---|---|---|
| Gas | $ 908,800.00 | | |
| Electric Utilities | 2,175,301.58 | | |
| Water Works | 8,877,636.85 | | |
| Municipal Telephone | 1,142,430.00 | | |
| Transportation | 691,310.95 | | |
| Acquisition of Lands (Industrial) | 1,362,692.05 | | |
| Others - Including Parking Lots | 3,509,440.00 | $ 18,667,611.43 | $ 32,098,356.08 |

## S U M M A R Y

| | | |
|---|---|---|
| General Government | $ 237,031,173.52 | $ 171,552,649.30 |
| Education | 135,333,984.81 | 70,481,971.99 |
| Municipal Enterprises | 18,667,611.43 | 32,098,356.08 |
| | $ 391,032,769.76 | $ 274,132,977.37 |

Schedule "B" - continued

## CAPITAL EXPENDITURES - 1962

### Separate Statement of Local Debt and General Debt

| | Local Debt | General Debt | Total |
|---|---|---|---|
| General Government I and II | | $ 30,185,450.41 | $ 30,185,450.41 |
| Public Works | $ 49,194,595.19 | 53,860,314.29 | 103,054,909.48 |
| Sanitation | 18,012,934.52 | 33,572,183.13 | 51,585,117.65 |
| Health | | 22,510,030.63 | 22,510,030.63 |
| Social Welfare | | 8,629,234.33 | 8,629,234.33 |
| Recreation Services | | 9,203,416.00 | 9,203,416.00 |
| Community Services | | 11,863,015.02 | 11,863,015.02 |
| Education | | 135,333,984.81 | 135,333,984.81 |
| Gas | | 908,800.00 | 908,800.00 |
| Electric Utilities | | 2,175,301.58 | 2,175,301.58 |
| Waterworks | | 8,877,636.85 | 8,877,636.85 |
| Municipal Telephone | | 1,142,430.00 | 1,142,430.00 |
| Transportation | | 691,310.95 | 691,310.95 |
| Acquisition of Lands (Industrial) | | 1,362,692.05 | 1,362,692.05 |
| Other - includes Parking Lots | | 3,509,440.00 | 3,509,440.00 |
| | $ 67,207,529.71 | $323,825,240.05 | $391,032,769.76 |